

Brian P. Trelease, Esq. - (ID# 021352009)

RAINONE COUGHLIN MINCHELLO, LLC

555 U.S. Highway 1 South, Suite 440

Woodbridge, NJ 07095

Tel.: (732) 709-4182

Fax: (732) 791-1555

Attorneys for Defendants, City of Long Branch and Chief Jason Roebuck

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHN VAN DYK,

Plaintiff,

vs.

CITY OF LONG BRANCH, CHIEF
JASON ROEBUCK, AND JOHN DOE
ONE,

Defendants.

Civil Action No.:

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that on this date the Defendants, City of Long Branch and Chief Jason Roebuck, by their undersigned counsel, has filed this Notice of Removal pursuant to 28 U.S.C. 1446(a) in the office of the Clerk of the United States District Court for the District of New Jersey.

Defendants, by their undersigned counsel, show:

1. The Plaintiff, John Van Dyke, brought an action against the City of Long Branch and Chief Jason Roebuck, by filing a Complaint and Jury Demand in New Jersey Superior Court, Monmouth County, on July 11, 2019. A true copy of the Complaint is annexed hereto as **Exhibit A**.

2. The Summons and Complaint were served on these Defendants on July 17, 2019.
3. There have been no other proceedings in this action.
4. The Plaintiff is a resident of the State of New Jersey.
5. The above entitled action arises under federal law because in the Complaint and Jury Demand the Plaintiff is alleging that Defendants violated Plaintiff's federal civil rights, including his First Amendment rights under the Constitution of the United States. See Counts I and II of Plaintiff's Complaint as attached hereto as **Exhibit A**.
6. Since the subject matter of Plaintiff's Complaint provides a federal question, jurisdiction over the matter is conferred on this Court by 28 U.S.C. 1331.
7. This notice is filed with this Court within thirty (30) days of the Defendants' receipt "through service of otherwise of a copy of the initial pleading setting forth the claim for relief upon such action or proceeding is based" as provided by 28 U.S.C. 21 1446(b).
8. The undersigned represents all Defendants in this matter.

PLEASE TAKE FURTHER NOTICE that Defendants, City of Long Branch and Chief Jason Roebuck, upon filing the Notice of Removal in the office of the Clerk of the District Court, has also filed copies of this Notice with the Clerk of the Superior Court, Monmouth County, Law Division, Monmouth County Courthouse, 71 Monument Street,

Freehold, New Jersey 07728, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. 1446(d).

RAINONE COUGHLIN MINCHELLO, LLC
Attorneys for Defendants, City of
Long Branch and Chief Jason Roebuck

Dated: August 6, 2019

By: /s/Brian P. Trelease
Brian P. Trelease, Esq.

EXHIBIT A

RECEIVED

JUL 17 2019

SUMMONS**CITY CLERK'S OFFICE**

**JOHN VAN DYK
PO BOX 290
ALLENWOOD, NJ 08720
732-567-0958**

SUPERIOR COURT OF NEW JERSEY

MONMOUTH COUNTY LAW DIVISION

DOCKET : MON - L-002434-19

JOHN VAN DYK

CIVIL ACTION

v.

SUMMONS

THE CITY OF LONG BRANCH ET. AL.

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment. If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above.

CLERK OF THE SUPERIOR COURT

*Orig: Reunone
cc: Jackson, Leebucke
file*

DATE: 7/15/2019

NAME OF DEFENDANT TO BE SERVED: CITY OF LONG BRANCH, NJ

ADDRESS OF DEFENDANT TO BE SERVED: 344 BROADWAY LONG BRANCH, NJ 07740

John Van Dyk, Plaintiff
Address: PO Box 290 Allenwood, NJ 08720
Telephone: (732)-567-0958

<p>JOHN VAN DYK</p> <p><i>Plaintiff</i></p> <p>V.</p> <p>LONG BRANCH, N.J., CHIEF JASON ROEBUCK, AND JOHN DOE ONE</p> <p><i>Defendants</i></p>	<p>SUPERIOR COURT OF NEW JERSEY</p> <p>MONMOUTH COUNTY CIVIL DIVISION</p> <p>DOCKET NUMBER: MON – L - <u>002434</u>-19</p> <p>COMPLAINT AND JURY DEMAND</p>
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Plaintiff, John Van Dyk, by way of complaint against the defendants asserts as follows :

PRELIMINARY STATEMENT

1. This is an action being brought against the defendant municipality and its agents, under the federal civil rights statute 42 U.S.C. 1983, and the ancillary state statute, the New Jersey Civil Rights Act, codified at N.J.S.A. 10:6-1 Et. Seq., for violating plaintiff's constitutionally protected exercise of free speech suppressed, by arbitrarily and capriciously blocking him from commenting on the Long Branch Police Department's public facebook page, without justification or reason.

PARTIES

2. **Plaintiff JOHN VAN DYK**, referred to as "plaintiff" hereafter, is an individual, civil rights activist and citizen journalist, who resided in Monmouth County, N.J. at the time of legal injury, and still does reside therein at the time this complaint is being filed.

3. **Defendant, CITY OF LONG BRANCH**, is a political subdivision of the State of New Jersey, located in Monmouth County, incorporated under the laws therein.

4. **Defendant, JASON ROEBUCK**, is the Chief of Long Branch's Police Department and was the Director of Public Safety in the defendant municipality since at least 2016.

5. **Defendant JOHN DOE ONE**, is the unidentified individual agent of Long Branch responsible for maintaining the official Facebook Page of the Long Branch Police Department.

JURISDICTION AND VENUE

7. Jurisdiction is proper under 42 U.S.C. 1983 and the N.J. Civil Rights Act.

8. Venue is proper because Monmouth County, N.J. is the site of legal injury.

FACTS GIVING RISE TO LIABILITY

9. Plaintiff is a civic activist who has been engaged in video journalism, vis-a-vis his youtube channels, covering Monmouth County political and police misconduct.

10. As part of his activism and journalism, Plaintiff routinely monitors and comments on the facebook pages of Monmouth County municipalities and law enforcement agencies.

11. Upon suspecting that he had been blocked from commenting on the Long Branch Police Department's Facebook page, Plaintiff sent in an Open Public Records Act request, commonly referred to as an OPRA request, seeking a copy of the Long Branch P.D.'s block list as well as records associated with the Long Branch P.D.'s Block list on February 12, 2019.

12. On February 19, 2019, the OPRA response indicated that the Plaintiff had been blocked from commenting on the Long Branch Police Department's facebook page on July 25, 2016, and further indicated that the Police Department could not provide a reason or justification as to why the Plaintiff was blocked.

13. As of July 3, 2019, the Plaintiff still remains blocked on the Long Branch Police Department's facebook page.

I. COUNT ONE

42 U.S.C 1983

VIOLATION OF PLAINTIFF'S FREE SPEECH RIGHTS UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

14. Plaintiff's constitutional right to observe and participate in conversation and debate on governmental forums and at governmental meetings, like those of any other American citizen is safeguarded by the First Amendment to the U.S. Constitution.

15. The Long Branch Police Department's Facebook page is maintained by, and on behalf, of a governmental entity, the City of Long Branch, N.J.

16. Members of the general public are permitted to comment on it and frequently do.

17. The absolute prohibition on Plaintiff's ability to post comments on governmental posts on the Long Branch Police Department's Facebook page violates the Free Speech Clause to the United States Constitution.

18. By the proximate conduct of the defendants, and violations of his civil rights the Plaintiff has been legally injured.

II. COUNT TWO
VIOLATION OF PLAINTIFF'S FREE SPEECH RIGHTS UNDER THE NEW JERSEY STATE
CONSTITUTION

19. The State Constitution protects the right to free speech against infringement by government actors.
20. The Long Branch Police Department's Facebook page is maintained by, and on behalf, of a governmental entity, the City of Long Branch, N.J.
21. Members of the general public are permitted to comment on it and frequently do.
22. The absolute prohibition on Plaintiff's ability to post comments on governmental posts on the Long Branch Police Department's Facebook page violates the Free Speech Clause to the United States Constitution.
23. By the proximate conduct of the defendants, and violations of his civil rights the Plaintiff has been legally injured.

DEMAND FOR JUDGMENT

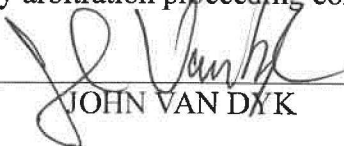
WHEREFORE Plaintiff demands judgment jointly and severally against Defendants for compensatory damages for injuries, and punitive damages.

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify, pursuant to R. 4:5-1, that the present matter in controversy is not the subject of any other action pending in any court, nor is the subject of any arbitration proceeding contemplated.

7-11-19

DATE

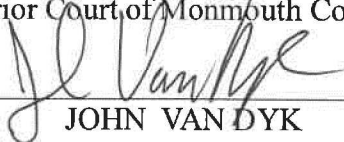

JOHN VAN DYK

PROOF OF MAILING



I hereby certify that an original and copy of the within complaint was filed with the Clerk of Monmouth County as Deputy Clerk of the Superior Court of Monmouth County.

7-11-19

DATE


JOHN VAN DYK

Appendix XII-B1

	Civil Case Information Statement (CIS)		Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		For Use by Clerk's Office Only	
					Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca	
					Chg/Ck Number:	
					Amount:	
					Overpayment:	
				Batch Number:		
Attorney/Pro Se Name John Van Dyk			Telephone Number 732-567-0958		County of Venue Monmouth	
Firm Name (if applicable) N/A			Docket Number (when available)			
Office Address P.O. Box 290 Allenvood, NJ 08720			Document Type Complaint / Jury Demand			
			Jury Demand <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Name of Party (e.g., John Doe, Plaintiff) John Van Dyk			Caption John Van Dyk v. Long Branch, NJ, Chief Jason Roebuck, and John Doe One.			
Case Type Number (See reverse side for listing) 005 Civil Rights Track III			Is this a professional malpractice case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If you have checked "Yes," see N.J.S.A. 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.			
Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			If "Yes," list docket numbers			
Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown			
The Information Provided on This Form Cannot be Introduced into Evidence.						
Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation						
Do parties have a current, past or recurrent relationship? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			If "Yes," is that relationship: <input type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input type="checkbox"/> Business			
Does the statute governing this case provide for payment of fees by the losing party?						<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition N/A						
	Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			If yes, please identify the requested accommodation:		
	Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			If yes, for what language?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).						
Attorney Signature: John Van Dyk Pro Se						

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|---|--|
| 271 ACCUTANE/ISOTRETINOIN | 297 MIRENA CONTRACEPTIVE DEVICE |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 300 TALC-BASED BODY POWDERS |
| 282 FOSAMAX | 601 ASBESTOS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 623 PROPECIA |
| 286 LEVAQUIN | 624 STRYKER LFIT CoCr V40 FEMORAL HEADS |
| 289 REGLAN | 625 FIREFIGHTER HEARING LOSS LITIGATION |
| 291 PELVIC MESH/GYNECARE | 626 ABILIFY |
| 292 PELVIC MESH/BARD | 627 PHYSIOMESH FLEXIBLE COMPOSITE MESH |
| 293 DEPUY ASR HIP IMPLANT LITIGATION | 628 TAXOTERE/DOCETAXEL |
| 295 ALLODERM REGENERATIVE TISSUE MATRIX | 629 ZOSTAVAX |
| 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS | 630 PROCEED MESH/PATCH |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59